

**BEFORE THE INDIANA STATE DEPARTMENT OF HEALTH**

**AN ADMINISTRATIVE RULES HEARING  
LSA DOCUMENT #18-416**

**HEARING OFFICER REPORT**

This matter came before the duly appointed Hearing Officer, Kelly MacKinnon, on the 9<sup>th</sup> day of May, at 10:00 a.m., at the Indiana State Department of Health (ISDH), 2 North Meridian Street, Indianapolis, Indiana.

Notice of time and place of the hearing was given as provided by law by publishing in the *Indianapolis Star* and by publishing in the *Indiana Register* on April 17, 2019. Proof of publication of this notice has been received by the ISDH and the notice and proof are hereby incorporated into the record of this cause by reference and placed in the official files of the ISDH. The transcript of the hearing is incorporated by reference as Exhibit 1.

**ORAL STATEMENT**

Angela Lyttle, CNM  
Owner, Clinical Director  
Sacred Roots Midwifery and Birth Center


Ms. Lyttle testified about her concerns about 410 IAC 39-3-1. In particular, she had concerns about the requirement for a written agreement with a receiving hospital with policies and procedures for timely transport. She stated that national standards, particularly the Commission for the Accreditation of Birth Centers, do not require written agreements for transfer. Her concern is that there is no requirements for hospitals to enter into agreements with birth centers and she was concerned that there may be birth centers that have difficulty entering into a transport agreement with a hospital. She asked for a requirement for hospitals to enter into agreements like the perinatal centers have certain requirements to take on non-affiliated hospitals. This could prevent birth centers from obtaining certifications, and may be worse in rural areas.

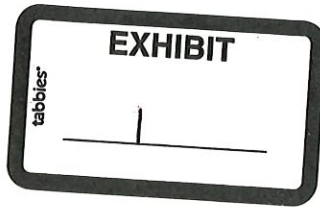
She also commented on the small business economic impact statement. She stated that the grants referenced in the statement are only available to non-profits.

The record was left open until May 9, 2019. ISDH received several written comments in addition to those in this report that are addressed in the summary of comments and agency

response document which will be presented to the Indiana State Department of Health Executive Board before Final Adoption.

Dated at Indianapolis, Indiana this 17<sup>th</sup> day of May, 2019.

  
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Kelly MacKinnon  
Hearing Officer



BEFORE THE INDIANA STATE DEPARTMENT OF HEALTH  
MAY 9, 2019, 10 A.M.  
RICE CONFERENCE ROOM  
TWO NORTH MERIDIAN STREET  
INDIANAPOLIS, INDIANA 46204

COPY

IN RE: LSA DOCUMENT NO. 18-416, RULE TO ESTABLISH A  
PROGRAM FOR THE CERTIFICATION OF PERINATAL HOSPITAL  
AND BIRTHING CENTER LEVELS OF CARE FOR BIRTHING  
CENTERS, OBSTETRIC UNITS, NEONATAL UNITS AND  
PERINATAL CENTERS, INCLUDING TRANSPORT RULES.

In the above-captioned matter a hearing was  
held before Hearing Officer Kelly MacKinnon on May 9,  
2019, at 10 a.m. and reported by me, Marjorie A.  
Addington, Notary Public in and for the County of  
Hamilton, State of Indiana, CM, CSR.

ACCURATE REPORTING OF INDIANA  
William F. Daniels Prop. RPR/CM  
12922 Brighton Avenue  
Carmel, Indiana 46032  
(317) 848-0088

1                   HEARING OFFICER KELLY MACKINNON: So this is  
2                   a public hearing before the Indiana State Department  
3                   of Health on the 9th day of May 2019 at 10 a.m. at  
4                   the Indiana State Department of Health, Rice  
5                   Conference Room, Two North Meridian Street,  
6                   Indianapolis, Indiana, and is docketed before the  
7                   Executive Board of the State Department of Health as  
8                   LSA Document No. 18-416, a rule to establish a  
9                   program for the certification of perinatal hospital  
10                  and birthing center levels of care for birthing  
11                  centers, obstetric units, neonatal units and  
12                  perinatal centers, including transport rules.

13                  Notice of time and place of this hearing was  
14                  given as provided by law by publishing on April 17th,  
15                  2019 in the "Indianapolis Star" and in the "Indiana  
16                  Register." Proof of publication of this notice has  
17                  been received by the Department and notice and proof  
18                  are now incorporated in the record of this cause by  
19                  reference and placed in the official files of the  
20                  Department.

21                  My name is Kelly MacKinnon and I have been  
22                  appointed Hearing Officer by the State Department of  
23                  Health to serve in this cause. The sign-in sheet  
24                  should be completed by all individuals desiring to be  
25                  shown as appearing of record and shall be completed



1 by those who desire to be heard during this hearing.  
2 If you have not already signed the sign-in sheet,  
3 please do so at this time.

4 You will also find in the back of the room a  
5 copy of the proposed rule, the small business  
6 economic impact statement, and the Indiana Economic  
7 Development Corporation's comments on the economic  
8 impact statement. You are welcome to take a copy of  
9 each.

10 Additionally, the proposed rule and IEDC  
11 comments are posted on the Department's website at  
12 [www.in.gov/isdh](http://www.in.gov/isdh) under "Rules." Oral statements will  
13 be heard and written statements may be handed to me,  
14 e-mailed to me at [rulepubliccomments@isdh.in.gov](mailto:rulepubliccomments@isdh.in.gov) or  
15 mailed to me at Two North Meridian Street, Section  
16 3H-99, Indianapolis, Indiana, 46204, by the end of  
17 the day today, May 9th, 2019. All written and verbal  
18 comments will be recorded in my report on this  
19 hearing to the Executive Board of the Indiana State  
20 Department of Health.

21 Each person who speaks for the record is  
22 requested to clearly identify yourself by giving your  
23 name, spelling it and identifying who you represent.  
24 Is there anyone who cares to be heard?

25 ANGELA LYTTLE: Good morning. I'm Angela

1 Lyttle, A-N-G-E-L-A, Lyttle, L-Y-T-T-L-E. I am a  
2 certified nurse-midwife and I am the managing owner  
3 and clinical director of Sacred Roots Midwifery &  
4 Birth Center here in Indianapolis. I'm here to speak  
5 in regard to 410 IAC 39-3-1, Birth Center  
6 Requirements, which states that each birth center  
7 shall establish the following policies and procedures  
8 established agreement with the receiving hospital.

9 This language asks the small business, the  
10 birth center, to obtain an agreement from a hospital  
11 competitor in order to operate without any impetus  
12 for the hospital to comply. This is not in alignment  
13 with the national standard for birth centers that has  
14 been set by the Commission for the Accreditation of  
15 Birth Centers, or CABC. CABC indicators clearly  
16 state that a written agreement is not required  
17 between the birth center and receiving facility.

18 As ISDH has recognized in the rules that  
19 unaffiliated hospitals may need to be assigned to  
20 perinatal centers, birth centers require similar  
21 language and protection for assignment to a receiving  
22 hospital should this become necessary for licensure.  
23 This is of particular in rural hospital or rural  
24 communities where there may only be one receiving  
25 hospital. The levels of care legislation and rule

1 seeks to improve access to care and decrease barriers  
2 specifically to address Indiana's abysmal maternal,  
3 fetal and infant mortality rates. These rules affect  
4 real people and real communities. States that are  
5 doing the best have a strong midwifery presence and  
6 seamless collaboration between providers and  
7 communities.

8 With this rule midwives in rural communities  
9 who wish to open birth centers will potentially be  
10 blocked from creating safe licensed care spaces that  
11 consistently show strong outcome for low-risk healthy  
12 women with healthy low-risk pregnancies. This  
13 required agreement without reciprocal protection is a  
14 barrier to care for these rural families in rural  
15 communities.

16 One other point that I wasn't planning to  
17 make but just reading the economic impact statement,  
18 it does speak to there are grants available from the  
19 American Association of Birth Centers Foundation to  
20 support accreditation expenses. I just want to make  
21 note that those grants are available only to  
22 nonprofit birth centers. Thank you.

23 HEARING OFFICER KELLY MACKINNON: Is there  
24 anyone else who would like to speak? Okay, seeing  
25 and hearing everyone who wants to be heard at this

1 time, I want to thank each of you for your  
2 presentation. My report for the hearing will be in  
3 writing to the Executive Board of the Indiana State  
4 Department of Health for their consideration before  
5 final adoption.

6 Sorry, do you have any desire to speak? I'm  
7 about to close it, so -- No? Okay. These  
8 proceedings pursuant to notice are hereby concluded.  
9 This cause is, therefore, adjourned until final order  
10 of the Executive Board. Thank you all for coming.

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## CERTIFICATE

STATE OF INDIANA

ss:

COUNTY OF HAMILTON

I, Marjorie A. Addington, the undersigned Court Reporter and Notary Public residing and maintaining offices in the City of Carmel, Hamilton County, Indiana, do hereby certify:

That I reported to the best of my ability in machine shorthand all of the words spoken by all parties in attendance during the course of the hearing;

That I later reduced my shorthand notes into the foregoing typewritten transcript form, which typewritten transcript is a true record to the best of my ability of the hearing;

That I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or an employee of such attorney or counsel, and that I am not financially interested in this action.

IN WITNESS HERETO, I have affixed my Notarial Seal and subscribed my signature below this 13th day of MAY, 2019.

Notary Public  
County of Residence: Hamilton (Seal)  
My Commission Expires on: JUNE 25, 2023

